National Labor Relations Board



Weekly Summary of NLRB Cases

Division of Information	Washington, D.C. 20570	Tel. (202) 273-1991
February 24, 2006		W-3040

<u>CASES SUMMARIZED</u> VISIT WWW.NLRB.GOV FULL TEXT

<u>United Parcel Service</u>	Louisville, KY	1

OTHER CONTENTS

<u>List of Decisions of Administrative Law Judges</u>	1
<u>List of Unpublished Board Decisions and Orders in Representation Cases</u>	2

- Uncontested Reports of Regional Directors and Hearing Officers
- Requests for Review of Regional Directors' Decisions and Directions of Elections and Decisions and Orders
- Miscellaneous Board Orders

The Weekly Summary of NLRB Cases is prepared by the NLRB Division of Information and is available on a paid subscription basis. It is in no way intended to substitute for the professional services of legal counsel, or for the authoritative judgments of the Board. The case summaries constitute no part of the opinions of the Board. The Division of Information has prepared them for the convenience of subscribers.

If you desire the full text of decisions summarized in the Weekly Summary, you can access them on the NLRB's Web site (www.nlrb.gov). Persons who do not have an Internet connection can request a limited number of copies of decisions by writing the Information Division, 1099 14th Street, NW, Suite 9400, Washington, DC 20570 or fax your request to 202/273-1789. As of August 1, 2003, Administrative Law Judge decisions are on the Web site.

All inquiries regarding subscriptions to this publication should be directed to the Superintendent of Documents, U. S. Government Printing Office, Washington, DC 20402, 202/512-1800. Use stock number 731-002-0000-2 when ordering from GPO. Orders should not be sent to the NLRB.

Teamsters United Parcel Service National Negotiating Committee on behalf of Teamsters Local 89 (9-CB-10817, et al.; 346 NLRB No. 49) Louisville, KY Feb. 17, 2006. The Board adopted the administrative law judge's findings that the Respondent Union violated Section 8(b)(1)(A) and (2) of the Act by accepting exclusive recognition as the representative of previously unrepresented UPS international auditors (clerk auditors) and ODC/FDC clerks, at a time when a majority of these employees had not designated the Union as their representative, and by entering into a contract with UPS as the collective-bargaining representative and receiving dues from the pay of certain previously unrepresented clerk auditors and ODC/FDC clerks. [HTML] [PDF]

At issue is whether the Union violated the Act by executing and maintaining a collective-bargaining agreement with UPS in 2002, which extended the existing UPS nationwide bargaining unit it represents to include all ODC/FDC clerks and clerk auditors.

The General Counsel contended that the clerk auditors had been historically excluded from the bargaining unit and therefore could not lawfully be accreted to the unit. The judge found that the addition of the clerk auditors employed at UPS' Louisville, KY facility constituted an unlawful accretion to the bargaining unit. In his limited exceptions, the General Counsel requested that the Board clarify that the violation is nationwide in scope, encompassing not only Louisville, but also nearly 1000 UPS locations where the General Counsel asserts that clerk auditors also have never been represented by the Union.

The Board concluded, however, that the General Counsel did not present sufficient evidence to establish a nationwide violation. It found merit in the General Counsel's exceptions only to the extent that it determined that the clerk auditors employed at four additional UPS facilities located in Ontario, CA, Buffalo, NY, Hialeah, FL, and Philadelphia, PA had been historically excluded from the unit and therefore, the Union's unlawful conduct extended to these four locations.

(Chairman Battista and Members Schaumber and Walsh participated.)

Charges filed by Porter Lady, Kelly Southworth, Melissa Curry, and Tom Moxley, Individuals; complaint alleged violation of Section 8(b)(1)(A) and (2). Hearing at Louisville, Oct. 5-6, 2004. Adm. Law Judge Lawrence W. Cullen issued his decision Jan. 19, 2005.

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Marine Spill Response Corp. (Longshoremen [ILWU]) Carson & Long Beach, CA Feb. 15, 2006. 21-CA-36663; JD(SF)-12-06, Judge John J. McCarrick.

Twin Harbors Group Home Association (Washington State Council of City Employees [AFSCME]) Aberdeen, WA Feb. 16, 2006. 19-CA-39717; JD(SF)-10-06, Judge William L. Schmidt.

Service Employees Local 1107 (an Individual) LasVegas, NV Feb. 15, 2006. 28-CB-6298; JD(SF)-11-06, Judge Joseph Gontram.

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board adopted Reports of Regional Directors or Hearing Officers in the absence of exceptions)

DECISION AND CERTIFICATION OF REPRESENTATIVE

Penske Truck Leasing, Capitol Heights, MD, 5-RC-15914, Feb. 14, 2006 (Chairman Battista and (Members Liebman and Schaumber)

Wayne Jimenez Concrete, Inc., Riverside, CA, 21-RC-20858, Feb. 15, 2006 (Chairman Battista and Members Liebman and Schaumber)

DECISION AND DIRECTION [that Regional Director open and count ballot]

Glen – Gery Corp., West Des Moines, IA, 18-RC-17409, Feb. 14, 2006 (Chairman Battista and Members Liebman and Schaumber)

DECISION AND DIRECTION OF SECOND ELECTION

Tyson Foods, Inc., Hope, AR, 26-RC-8482, Feb. 17, 2006 (Chairman Battista and Members Liebman and Schaumber)

(In the following cases, the Board denied requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Lifelinks, Inc., Lowell, MA, 1-RC-21975, Feb. 15, 2006 (Chairman Battista and Member Schaumber; Member Liebman dissenting in part)

Miscellaneous Board Orders

CERTIFICATION OF REPRESENTATIVE AS BONA FIDE UNDER SECTION 7(B) OF THE FAIR LABOR STANDARADS ACT OF 1938

City of Chico, Chico, CA, 20-WH-17, Feb. 15, 2006 Village of Westmont, Westmont, IL, 13-WH-8, Feb. 17, 2006

ORDER [remanding to Regional Director for consideration of the evidence presented by the Union]

Clinica Sierra Vista, Bakersfield, CA, 31-RC-8500, Feb. 17, 2006 (Chairman Battista and Member Schaumber; Member Liebman dissenting)
